

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Philip G. Reinhard	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	04 C 50195	DATE	10/12/2004
CASE TITLE	Trapp vs. Rockford School District 205		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

Plaintiff

## DOCKET ENTRY:

- (1)  Filed motion of [ use listing in "Motion" box above.]
- (2)  Brief in support of motion due \_\_\_\_\_.
- (3)  Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4)  Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5)  Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6)  Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7)  Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8)  [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9)  This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
  FRCP4(m)  Local Rule 41.1  FRCP41(a)(1)  FRCP41(a)(2).
- (10)  [Other docket entry] For the reasons stated on the reverse memorandum opinion and order, the court grants defendant's motion to dismiss Count II.

- (11)  [For further detail see order on the reverse side of the original minute order.]

	No notices required, advised in open court.	 10/13/04 10:10 AM CDT 2004 10/13/04 10:10 AM CDT 2004 Date/time received in central Clerk's Office	Document Number  11
	No notices required.		
	Notices mailed by judge's staff.		
	Notified counsel by telephone.		
<input checked="" type="checkbox"/>	Docketing to mail notices.		
	Mail AO 450 form.		
	Copy to judge/magistrate judge.		
LC	courtroom deputy's initials		

## MEMORANDUM OPINION AND ORDER

Plaintiff, William H. Trapp, filed a two- count complaint against defendant, Rockford School District 205, alleging in Count I a cause of action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, and in Count II a state- law claim for “public policy retaliation.” Jurisdiction is based on 28 U.S.C. §§ 1331 and 1343 as to Count I, as well as 28 U.S.C. § 1337(a) for the supplemental state- law claim in Count II.

Defendant has filed a motion to dismiss Count II, contending, among other things, that Illinois does not recognize a cause of action for retaliation short of that resulting in the actual discharge of the plaintiff. Plaintiff filed an unhelpful, one- page response in which he states that he “stands by the sufficiency of his previously filed complaint.”

Illinois courts recognize a common- law tort of retaliatory discharge that has three elements: (1) discharge; (2) in retaliation for the plaintiff’s activities; and (3) the retaliation violates a clearly mandated public policy. Vorpagel v. Maxell Corp. of America, 333 Ill. App. 3d 51, 54, 775 N.E. 2d 658 (2002). The Illinois Supreme Court has expressly refused to expand the tort to any employer conduct short of actual discharge, see Zimmerman v. Buchheit of Sparta, Inc., 164 Ill. 2d 29, 645 N.E. 2d 877 (1994), and the act of actual discharge continues to be a necessary element, Graham v. Commonwealth Edison Co., 318 Ill. App. 3d 736, 742, 742 N.E. 2d 858 (2000).

In this case, plaintiff has not alleged that he was discharged in retaliation for any of his activities. Thus, Count II does not state a recognized cause of action under Illinois law and is, accordingly, dismissed.